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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,289	06/20/2003	Richard J. Murphy	WIN.1	6379

26689 7590 03/22/2004

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EXAMINER

MENDIRATTA, VISHU K

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/601,289	Applicant(s) MURPHY ET AL.	
	Examiner Vishu K Mendiratta	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1: In the absence of a proper environment, sequential steps and game structure, it is not possible to practice a method of playing. A claim should be able to stand on its own.

Claim 9: Answering N questions is unclear.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3,8-19 rejected under 35 U.S.C. 102(b) as being anticipated by Truong (5918882).

Truong teaches a method of playing a board game advancing a game piece (abstract), tasting an unidentified beverage (Table 1) and answering question (abstract). Truong clearly anticipates tasting at least two beverages before advancing. This can be explained in the following manner. The limitation "advancing" is interpreted as any

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intermediate movement and not necessarily the first or the beginning step, in that any tasting of beverage in prior steps is being treated as "preliminary tasting". Also any known taste of beverages can be interpreted as "preliminary tasting".

Answering correctly, moving and answering incorrectly and not advancing (3:30-35).

Truong teaches tasting wine (5:Table 1), directive cards (32) invoking bonus condition and challenge (3:27-35 and Table 1 awarding points).

Truong further teaches trivia game spaces (12) and tasting spaces (22)

5. Claims 17-19,24-32,35 rejected under 35 U.S.C. 102(b) as being anticipated by Novotny (4733863).

Novotny teaches a plurality of trivia game spaces, a blind taste space (3:40-48) in a predetermined pattern around the periphery (10), game pieces (20) and space for recording the taste (30). Novotny further teaches direction cards (Fig.2), tasting area (22), note sheets for evaluating the beverage/wine (Fig.3-4).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-7,35 rejected under 35 U.S.C. 103(a) as being unpatentable over Truong in view of Novotny.

Truong teaches all limitations except that it does not teach recording information.

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In order to evaluate the correctness of the information, it would have been obvious to record observations. One of ordinary skill in art at the time the invention was made would have suggested recording information about tasting the beverages.

8. Claims 20-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Novotny in view of Bowker (4529205).

Novotny teaches all limitations except that it does not teach providing wine labels on spaces.

Bowker teaches providing wine labels in spaces (16).

In order to make the game popular, it would have been obvious to provide theme related indicia. One of ordinary skill in art at the time the invention was made would have suggested providing theme related indicia to make the game popular.

Further in order to distinguish one beverage from another it would have been obvious to indicate various characteristics such as their variety, name etc.

One of ordinary skill in art at the time the invention was made would have suggested providing differentiating indicia on spaces.

9. Claims 33-34 rejected under 35 U.S.C. 103(a) as being unpatentable over Novotny.

In order to make the game popular, it would have been obvious to provide theme related aesthetics in the game. One of ordinary skill in art at the time the invention was made would have suggested providing theme related aesthetics to make the game popular. There is no criticality of a cork like playing piece in applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta
Examiner
Art Unit 3712

VKM
March 17, 2004